IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8203 OF 2005

Parekh Platinum Ltd. & anr. .. Petitioners
v/s.
The Union of India & ors. .. Respondents

Mr.S. Shreedharan with Mr.Prakash Shah i/by PDS Legal for petitioners.

Mr.A.C.Singh with Mr.D.A.Dubey for respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 21st December 2005

P.C. :

1. Heard Mr.Shreedharan in support of this Petition. Mr.A.C. Singh appears for the respondents.

2. The order dated 29th August 2005 passed by the Customs Excise and Service Tax Appellate Tribunal directing 25% pre-deposit of the duty, (half of which was to be deposited in cash and the remaining by furnishing a Bank Guarantee) is under challenge in the present Petition.

3. Mr.Shreedharan appearing for the petitioner has principally made two submissions. Firstly, he submits that the intermediary product for which the duty is demanded was never being

marketed separately. If the duty is demanded, it would amount to double taxation. The second submission of Mr.Shreedharan is that the duty demanded itself was beyond time.

4. We are of the view that these two submissions ought to be considered by the Tribunal while deciding the question of pre-deposit. It is only for this reason that we interfere with this order and revive the stay Application to the file of the Tribunal. It will be open to the Tribunal to hear and decide the Appeal itself, if it is so inclined, while deciding the Application for stay.

5. Petition is allowed in the aforesaid terms. No order as to costs.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)